

## **Australian Federal Police admit to illegal metadata breach**

by Rachel Baxendale via gail - The Australian *Friday*, Apr 28 2017, 12:29am

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The Australian Federal Police have admitted to illegally accessing a journalist's phone records.



AFP Chief Commissioner Andrew Colvin held a press conference this afternoon to reveal that the AFP had self-reported the incident to the Commonwealth Ombudsman. The breach of the Telecommunications Act involved an AFP member who was conducting an internal investigation into the leaking of sensitive information to a reporter earlier this year.

The AFP investigator did not obtain a Journalist Information Warrant, as is required by law, before requesting the journalist's call charge records and telecommunications data.

Commissioner Colvin said it was only the records of calls and not their content which was accessed.

"The actual investigation, the internal investigation that led to this breach, is still ongoing," he said

"Once the breach was confirmed, we immediately moved to destroy all of the material that was provided to us as a result of that breach.

"I can also say that no investigational activity has occurred as a result of us being provided with that material.

"Put simply, this was human error. It should not have occurred."

Mr Colvin said the AFP took the breach very seriously.

"I also want to say there was no ill will or malice or bad intent by the officers involved who breached the Act," he said.

"Quite simply, it was a mistake that should not have happened." Mr Colvin said the breach would prompt a review of the AFP's internal practices and procedures and substantial changes were being made.

The Coalition government introduced legislation 18 months ago granting police access to telecommunications metadata, which includes details of phone numbers and times, locations and durations of calls.

"When this legislation came in 18 months ago, the AFP, along with our police colleagues around the

country, moved to put in place a number of procedures and practices to ensure compliance with the law within our organisations,” Mr Colvin said.

“However, on consideration and reflection on this matter, we have now enhanced those.

“We have raised the level of internal authorisation required for access to data of this type. We are limiting the number of authorised officers who can approve access of this type. We are also re-rolling out and stepping up mandatory training to all investigators and authorised officers to make sure they are fully aware of their obligations under the Act.”

Mr Colvin said he was confident that a breach of this nature should not occur again and satisfied that there had been no further breaches during other investigations.

The Commonwealth Ombudsman will launch her own audit of the breach commencing next Friday.

Mr Colvin said the AFP welcomed the audit and would fully comply.

“Any recommendations the Ombudsman makes we will obviously take very seriously,” he said.

Mr Colvin said the journalist involved had not committed any offence.

He said that notwithstanding the breach the public should have full confidence in the police.

“I believe the public should have full confidence in this policy, which was a controversial policy that was debated very widely in parliament and the public at the time,” he said.

“I want to underscore how important access to metadata is to police as a fundamental building block of our investigations.

“The breach on this occasion occurred because of the very unique and specific circumstances relating to a journalist.”

The journalist has not been informed of the breach, and Mr Colvin said it would not be appropriate for them or the alleged leaker to be notified until the investigation into the leaking had been completed.

“Once the investigation takes its full course, we will be able to consider what actions we need to take but at this stage, we haven’t advised the journalist,” he said.

Mr Colvin admitted it was a “fair question” to ask whether the journalist had a right to know the police had breached their rights.

Mr Colvin said the investigator who had committed the breach had not been suspended or disciplined.

“I don’t believe there was ill will or bad intent here,” he said.

“Clearly we will do some more work to understand exactly what occurred.

“I don’t want to foreshadow where that might end but I think the system’s failed the investigator as much as the investigator failed in their obligations to know the law.”

Mr Colvin said the metadata would have related to all of the calls to or from a particular phone number over a particular period.

The breach was disclosed to the Ombudsman on Wednesday.

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***AFP chief, Andrew Colvin***

<https://tinyurl.com/l2oyu3e>

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Jungle Drum Prose/Poetry. <http://jungledrum.lingama.net/news/story-2632.html>